



WA No. 1701 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2025

CORAM

**THE HONOURABLE MR JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

WA No. 1701 of 2023

S.Sundaran

... Appellant

Vs

1. The State
Rep by its Secretary, Govt. of
Tamilnadu, Rural Development
and Panchayat Raj Department,
Secretariat, Chennai 600 009
- 2.The Director Of Rural
Development Panagal Building,
Saidapet, Chennai 600 015
- 3.The District Collector
The Nilgiris District, Nilgiris
- 4.The Personal Assistant To
District Collector (PD) Office of the
District Collector, Ootacamund,
The Nilgiris District

... Respondents

PRAYER

Writ Appeal under Clause 15 of the Letters Patent to set aside the
impugned Order dated 07.11.2022 and made in WP.No. 7837 of 2017



WA No. 1701 of 2023

For Appellant : Mr.A.S.Palanisamy

For Respondents : Mr.M.Venkateswaran Special
Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by R.Suresh Kumar J.)

The present intra Court appeal has been directed against the order passed by the Writ Court dated 07.11.2022 made in W.P.No.7837 of 2017.

2. The present appellant is the writ petitioner, who was working as Office Assistant in the respondent Department. His claim was that there has been 10% quota allotted for the Group IV employees for the appointment to the post of Junior Assistant by way of transfer of service. Though he was qualified to be considered for such promotion by way of transfer and to be appointed as Junior Assistant, such promotion has not been considered and given to the writ petitioner / appellant.

3. In this context, when he approached the writ Court, the writ Court has passed the following order.

"Promotion per se cannot be claimed as an absolute right. However, consideration for promotion is a fundamental right of an employee. Thus, the question of claiming promotion would arise only in the event of taking



WA No. 1701 of 2023

WEB COPY

an administrative decision by the competent authority to fill up the promotional post and not otherwise.

2. Mere possessing the educational qualification and other qualifications would not confer any right on the employee to claim promotion to the higher post. At the time of preparation of panel, the names of all the employees, who are all aspiring to secure promotions are to be considered in accordance with the rules in force and in the order of seniority. This being the principles to be followed, mere possessing of educational qualification cannot be considered as a ground for grant of promotion or otherwise. In the present case, the petitioner was holding the post of Office Assistant, his name was included in the list of seniority under the 10 % quota allotted for the Group 4 employees for the appointment to the post of junior assistant by way of transfer of service. Since the vacancies were not available or the authorities have not filled the vacancies, the case of the petitioner was not considered for promotion. Meanwhile, the petitioner reached the age of superannuation and retired from service on 31.03.2017. Therefore, the claim of the petitioner for retrospective promotion, in the absence of any illegality or violation of rules, cannot be considered for grant of retrospective promotion. The petitioner has to establish that the juniors of the petitioner were promoted or appointed in violation of the Rules or the authorities have committed any irregularity. In the absence of establishing any such ground, the relief as such sought for in the present writ petition to grant retrospective



WA No. 1701 of 2023

WEB COPY

promotion, cannot be considered. The writ petition is devoid of merits and stands dismissed.

4. Assailing the said order, the present intra Court appeal has been filed by the writ petitioner.

5. Learned counsel for the appellant / writ petitioner would submit that, even though a panel has been prepared consisting of the Office Assistants at Nilgiris District in Rural Development Department in the year 2011, where the appellant's name was found at Sl.No.4, as he was qualified to be considered for promotion to the post of Junior Assistant, he was not considered till he reached superannuation on 31.03.2017. Therefore, he contends that though for the relevant period no promotion has been given, at least from the panel year he should have been considered for notional promotion and to that extent the order passed by the writ Court is erroneous and seeks the indulgence of this Court.

5. Heard Mr.M.Venkateswaran, learned Special Government Pleader who would submit that the preparation of the panel would not confer any right on the members of the panel because, preparation of the panel is the routine work, which would be made based on the crucial date. However, promotion is not a matter of right and moreover, between 2011



WA No. 1701 of 2023

and 2017, no such promotion under the 10% quota had been given to any of the Office Assistants, especially juniors to the appellant / writ petitioner. Therefore, the appellant / writ petitioner does not have any right to claim notional promotion after his superannuation on 31.03.2017. Learned Special Government Pleader would submit that the view taken by the learned single Judge is in consonance with the procedure which is in vogue.

6. We have considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.

7. As has been rightly pointed out by the learned Special Government Pleader, if any promotion has been given to any of the juniors of the writ petitioner / appellant between 2011 and 2017, certainly the appellant / writ petitioner can claim the promotion and if not been given till his superannuation on 31.03.2017, he can seek for such a relief of notional promotion.

8. Here in the case in hand, no such promotion has been given. Promotion is not a matter or right, only consideration for promotion is a right, which has been quoted by the learned Single Judge also in the impugned order. For consideration only the panel has been drawn in the



WA No. 1701 of 2023

year 2011, where the appellant / writ petitioner's name was found.

Therefore, to that extent there cannot be any grievance for the appellant / writ petitioner. However, promotion since is not a matter of right, he cannot simply ask for the same merely on the basis that his name is found in the panel for promotion and that he should have been considered for promotion.

9. That apart, since as on date the writ petitioner / appellant has retired from service and no promotion had been given not only to the his juniors, but to none, the writ petitioner / appellant cannot be said to be aggrieved over the non granting of the promotion till his superannuation.

10. In view of the aforesaid facts and circumstances, we are in agreement with the view taken by the learned Single Judge through the impugned order and the same does not warrant interference. Resultantly, the writ appeal fails and the same is dismissed. No costs.

(R.SURESH KUMAR J.) (A.D.MARIA CLETE J.)
29-04-2025

Index:Yes/No
Internet:Yes
Neutral Citation:Yes/No
KST



WA No. 1701 of 2023

To
WEB COPY

1. The Secretary to the Government
Govt. of Tamilnadu,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai 600 009
2. The Director Of Rural
Development Panagal Building,
Saidapet, Chennai 600 015
3. The District Collector
The Nilgiris District, Nilgiris
4. The Personal Assistant To
District Collector (PD) Office of the
District Collector, Ootacamund,
The Nilgiris District



WEB COPY



WA No. 1701 of 2023

**R.SURESH KUMAR J.
AND
A.D.MARIA CLETE J.**

KST

WA No. 1701 of 2023

29-04-2025